IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION.

WRIT PETITION NO.4331 OF 2006

Shri Kabir Noorahmed Vishram, .. Petitioner

Vs

Shri Shrinivas Bhagwantram Goyal, .. Respondent

Mr Shrishail Sakhare, for the petitioner.
Mr Rajesh Singh i/b Mr S.K.Dubey, for the respondent.

CORAM : D.B.BHOSALE,J.
DATE : 19.08.2006

PC:

1. Heard the learned counsel for the parties.

2. The petitioner has impugned the order dated 5.1.2006 passed by the trial Court under Order 39 rule 2A of the Code of Civil Procedure, by which the petitioner has been ordered to be detained in the civil prison for a term of 15 days in view of disobedience of the order passed below Exhibit-5. By order dated 29.11.2003 on the application at Exhibit-5 the petitioner was directed to deposit the half electricity bills of the suit house and continued to pay the half electricity bills of succeeding months till final disposal of the suit. It is true that the order was not complied with and hence the respondent-plaintiff was forced to file an application under Order 39 rule 2A of the Code of Civil Procedure. Admittedly, after filing of the said

application, the petitioner has deposited the entire dues. Mr Sakhare, learned counsel for the petitioner, on instructions, states that the petitioner shall not make any default in making payment of the electricity bills as per the order dated 29.11.2003 passed below Exhibit-5. This statement is accepted. Keeping that in view and considering that the petitioner has deposited the entire dues as per the order dated 29.11.2003, I am satisfied that the following order shall meet the ends of justice.

(i) The order of detention in the civil prison for a term of 15 days as per the order dated 5.1.2006 impugned in the present petition is set aside, subject to payment of cost of Rs.3000/- to be paid directly to the respondent-plaintiff by demand draft within four weeks from today, failing which the impugned order dated 5.1.2006 shall operate and in that case the petitioner will have to suffer the detention in the civil prison as per the impugned order.

(ii) The writ petition is disposed of.

(D.B.BHOSALE,J.)